



Labor Law Landscape

Room 107BC



CONNECT **351**





**LABOR LAW LANDSCAPE
AGENCY DECISIONS AND TRENDS
JANUARY 23, 2026**

MELISSA R. MURRAY |
NORRIS, MURRAY & PELOQUIN LLC

Agenda

- Joint Labor Management Committee (JLMC)
- Department of Labor Relations (DLR)
- Civil Service Commission (CSC)
- Peace Officer Standards and Training (POST) Commission
- Massachusetts Commission Against Discrimination (MCAD)

Disclaimer

The information provided in this presentation is for informational and training purposes only and is not legal advice.



JOINT LABOR MANAGEMENT COMMITTEE (JLMC)

STATISTICS, AWARDS, TIPS AND TRENDS

STATISTICS

YEAR	Number of Cases Filed	Open on 12/31/2024	Open on 12/31/2025	Closed
2016	63	1	0	1
2017	67	0	0	0
2018	44	0	0	0
2019	55	3	0	3
2020	20	2	0	2
2021	34	26	4	22
2022	52		39	13
2023	35		32	58
2024	31		30	39
2025	57	28	60	25

As of 12/31/24 there were 28 cases on the docket – 11 Fire and 17 Police.

As of 12/31/25 there were 60 cases on the docket, 25 were for Fire and 35 for Police (Patrol and Superior units). There are 14 cases on the agenda for removal at the first meeting of 2026 (January 22, 2026). That will leave 47 active cases (includes 1 new case for 2026). Two cases have an arbitrator appointed and are headed to arbitration in the next few weeks.

AWARDS SUMMARY

ARBITRATOR		AWARD YEARS	WAGES
2024			
Newton Police (P) JLMC # 23-10055	James S. Cooper	FY22-FY24	<p>Issues awarded: grievance language; training; BWC pilot (12 officers to receive \$2,500 stipend for participation); wages (3%, 3%, 3%); attendance software; POST (1.5% 7/1/22 and 1.5% 7/1/23).</p> <p>Issues not awarded: requirement to call in each shift officer is sick; no OT after leave until officer has worked a regular shift; 5% Hazardous duty stipend; and equalization of steps</p>

Number of decisions issued in prior years:

2016	2017	2018	2019	2020	2021	2022	2023	2024
8	6	13	12	4	4	1	4	2

JLMC UPDATES

CASES

- Volume of cases is growing
- Trend of settlement over arbitration continues
- **Only 13 awards issued 2020-2025 (to date)**
- **Wages are trending back down to approximately 2% but market adjustments continue**

STAFFING

- John Hanson, Chair of the JLMC
- Tony Mazzucco, Vice Chair of the JLMC
- George Driscoll and Robert Markle are the Senior Staff Representatives for Management

HOW TO PREPARE FOR THE JLMC

FIRST: Understand that going to the JLMC does NOT mean you are going to arbitration



- Be open and honest with Unions (all employees) to set expectations.
- **COMMUNICATE AND BE TRANSPARENT ABOUT FINANCES**
- Ask questions and do homework – why is Union asking for what they are asking for?
 - Is what they are asking for common in your area? Regional norms.
- Don't wait to put together comparability data (Internal and External).
- **COST OUT PROPOSALS!**
 - Understand how close or far apart the parties' proposals are.
 - Compare what you are proposing to other packages given in the city/town.
 - Analyze hidden costs and be clear on the long and short-term impacts of the benefits.
- Understand the risks (your strengths and weaknesses) of going to arbitration
- **Recognize and avoid negotiating against yourself**
 - Trend: Unions filing at JLMC to squeeze a little more out of cities and towns
- Communicate with the Management Rep and Panel Member
- Research Arbitrators; select strategically (challenging with shrinking pool)

Summary of the Landscape

- COLAs: Looking forward COLAs are beginning to come down (Boston Fire = 2% a year)
 - Total packages 10%-14% for 3 years depending on size of community and comparability; 12% sweet spot
 - **SOME COMMUNITIES ARE GETTING MARKET ADJUSTMENTS INCLUDED OR ON TOP OF THIS**
- POST Certification Stipend: police unions are still asking for an annual "Certification Differential" or "POST Stipend" for Post; the list of communities willing to provide/call it something else is growing.
 - There are 3 JLMC Arb Awards with POST Stipend: Westport = 6%; Brookline = 4%; Newton = 3%
 - Several communities are paying **something** but not calling it POST (Brookline renamed its stipend; Plymouth gave a Professional Standards Stipend = \$2,900)
 - Others embracing a POST/Certification Stipend (Taunton Police 8% over 4 yrs; Quincy 1.5%; Norwood \$1,500)
 - **Around 30 communities with some sort of POST related benefit**
- Staffing shortages, burnout, difficulty hiring, length of hiring process leading to increase in use of laterals and many police departments are taking advantage of Local Register Process
- EMT/Paramedic shortage - increasing EMT and Paramedic pay to help retain/attract personnel
- **Looking for increase in detail pay, longevity, hazardous duty and EDUCATION (Full Quinn & FF Education)**



DEPARTMENT OF LABOR RELATIONS (DLR)

Statistics and Significant Decisions

STATISTICS

- DLR Statistics and Cases Calendar Year 2025
- Case Processing and Statistics

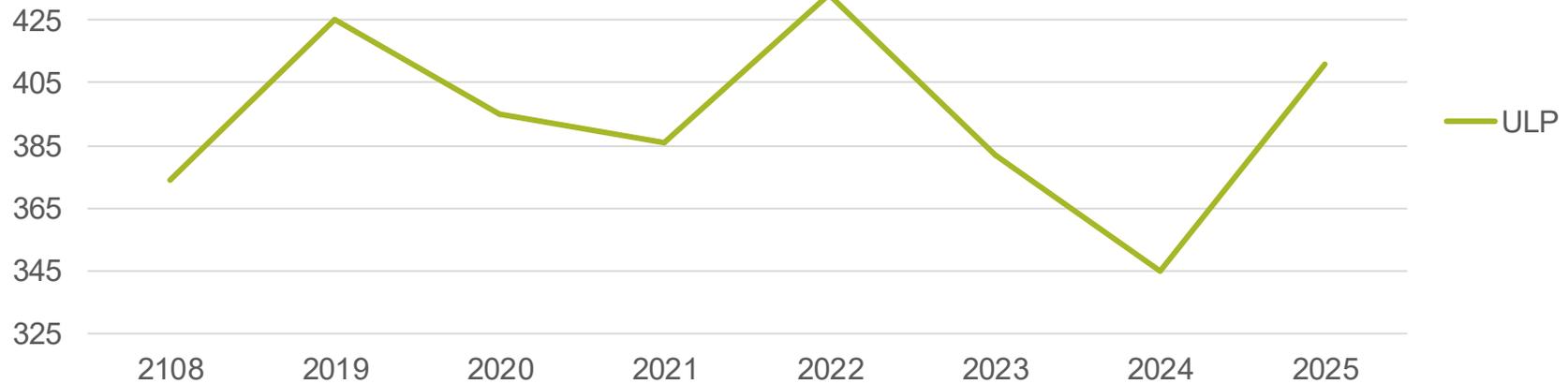
Case Type	# Filed 2021	# Filed 2022	# Filed 2023	# Filed 2024	# Filed 2025	# Closed 2021	# Closed 2022	# Closed 2023	#Closed 2024	#Closed 2025
Unfair Labor Practice Charges	386	433	382	345	411	368	428	408	422	335
Representation Petitions	32	53	29	23	20	28	54	34	32	15
Written Majority Authorization Petitions	15	31	31	32	25	15	27	27	35	27
Unit Clarification Petitions	18	16	15	23	13	17	14	16	15	26
Contract Mediation/Fact-Finding Petitions	72	107	72	47	79	48	81	96	65	52
JLMC Contract Mediation/Arbitration Petitions (Police/Fire)	34	54	35	31	57	25	26	58	39	25
Grievance Mediation Petitions	3	6	0	1	3	1	6	3	1	0
Arbitration	41	28	34	32	26	38	34	25	33	24

Source for Statistics: Philip T. Roberts, Director, Department of Labor Relations

STATISTICS

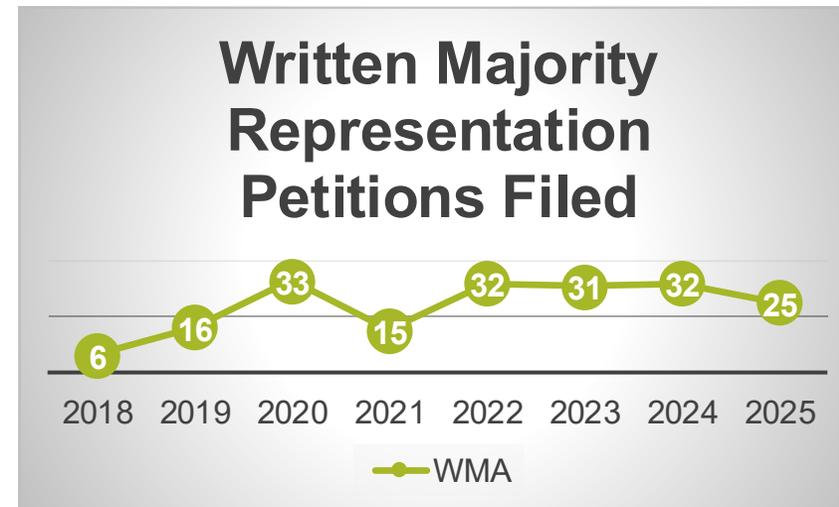
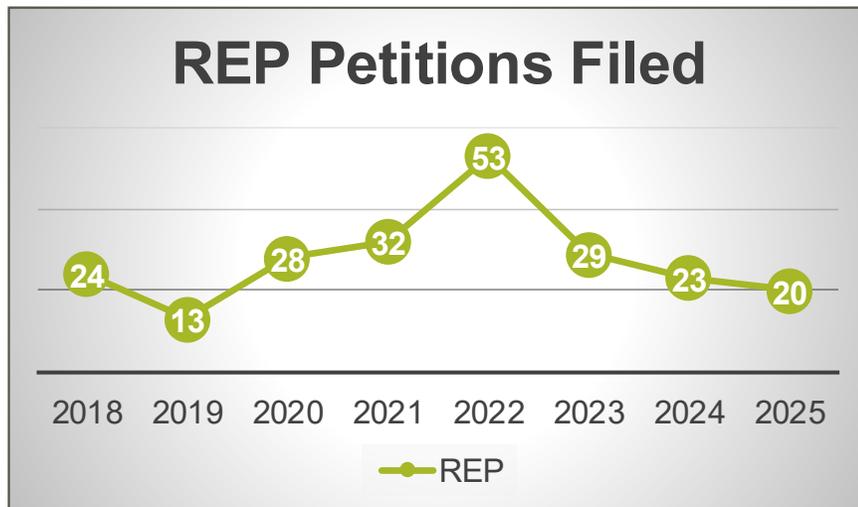
ULP filings were higher immediately before the pandemic, dropped during the first two years of the pandemic, and then increased above pre-pandemic levels. In 2023 the numbers returned to pre-pandemic levels (374 in 2018) and began trending downward, until 2025 which saw a sharp increase.

ULP Charges Filed



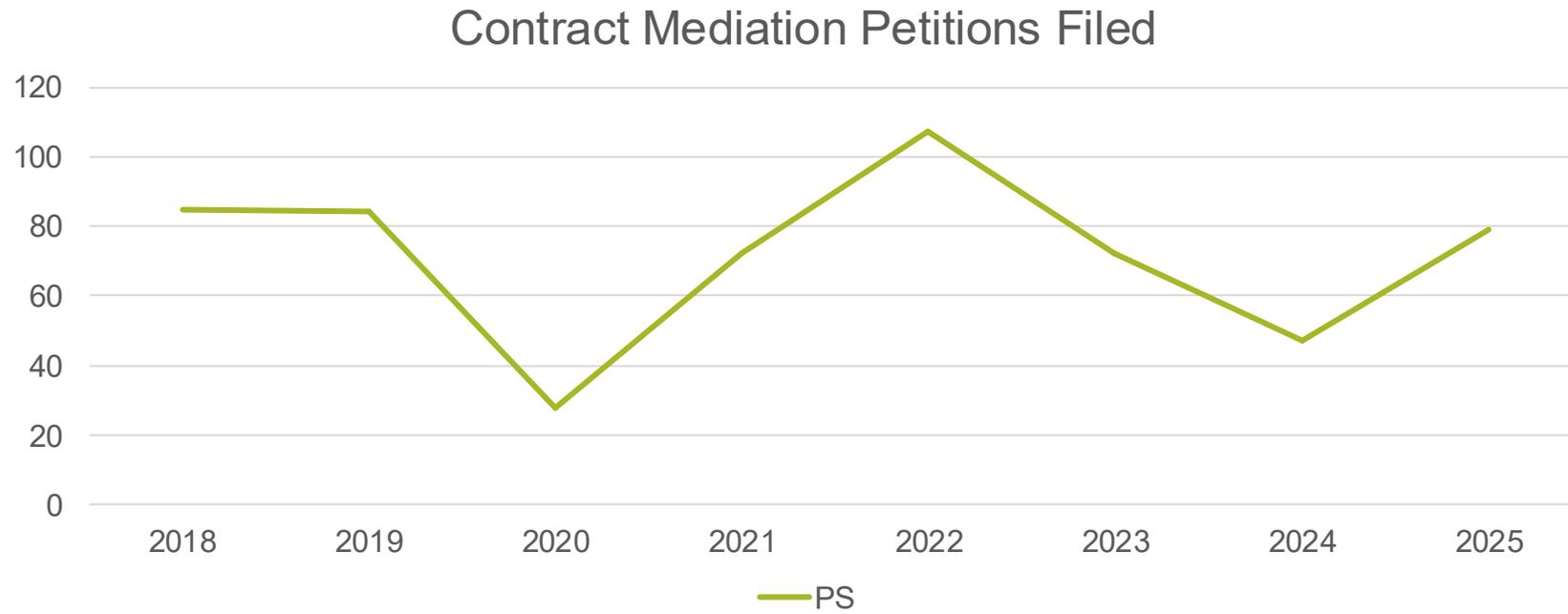
STATISTICS

Petitions for union representation continue to drop, returning to pre-pandemic levels, and for the first time in three years, Written Majority Representation Petitions also dropped.



STATISTICS

Petitions for contract mediation dropped sharply during 2020, returned to greater than pre-pandemic levels in 2022, and trended down for 2 years (dropping below pre-pandemic levels) before seeing an increase in 2025.



Staffing Changes at DLR

CERB NEWS: Last fall, Marjorie Wittner, Chair of the Commonwealth Employment Relations Board (CERB), retired after working for almost 25 years at the Department of Labor Relations and its predecessor. Ms. Wittner was the first person to be appointed as Chair of the CERB after it was created and she served in that position for 17 years. She remains at the DLR as part-time Special Counsel and has started a labor arbitration practice.

In January 2025, Massachusetts Governor Maura Healey reappointed Phil Roberts as DLR Director and appointed Lan Kantany as the new Chair of the CERB. Ms. Kantany was first hired by the DLR as a hearing officer/mediator/arbitrator and then was promoted to Chief Counsel, where she served for nearly three years before being appointed. Before joining the DLR, Ms. Kantany was an associate for six years at a law firm in Western Massachusetts, representing unions in initial and contract negotiations, mediations, and arbitrations and in state court and administrative agencies.

HEARING OFFICERS: DLR Chief Hearing Officer Susan Atwater retired in the fall of 2025. She also returned to the DLR as part-time Special Counsel. In her place, Margaret Sullivan was promoted to Chief Hearing Officer. Ms. Sullivan has been a DLR Hearing Officer for over 25 years, having graduated from Holy Cross College and Suffolk Law School and working as an attorney for a public sector union.

What's trending at DLR?

No Teacher Strikes in 2025

- At the end of 2024, the CERB issued an order in Beverly that essentially told the School Committee the strike is an improper and coercive bargaining tool and that there is no obligation to continue with mediation as long as teachers keep striking.
- MTA continues to push legislation that would make teacher strikes legal in certain circumstances

There were numerous CERB decisions on unit clarification and petitions to accrete positions.

New Legislation – Rideshare Drivers

In November 2024, Massachusetts voters passed Ballot Initiative No. 3, which creates a new Chapter 150F statute that authorizes eligible "Transportation Network Drivers" who drive for rideshare companies to form an industry-wide union. Chapter 150F also establishes unfair work practices similar to the unfair labor practices established under Chapter 150A and 150E. After a union has been certified, the Transportation Network Companies and the union will bargain over wages, benefits, and terms and conditions of work. On December 8, 2025, the DLR determined that the App Drivers Union has been designated as the bargaining representative of at least five percent (5%) of Active Rideshare Drivers, as defined under the Law and **456 CMR 24.01**. This is the first step in the process; the next step is to be seek certification as the exclusive representative of all drivers.

Judicial Appeals Pursuant to Section 11

SJC Finds Newton's Transfer of Union President Was An Adverse Employment Action, *City of Newton v. CERB*, 496 Mass. 82 (2005)

On May 22, 2025, the Supreme Judicial Court issued a decision affirming the CERB's decision in *City of Newton and Newton Police Superior Officers Association*, 49 MLC 237, MUP-18-6946, MUP-19-7379 (February 22, 2023), after granting further appellate review of the Appeals Court decision, 104 Mass. App. Ct. 203 (May 22, 2024).

In ***City of Newton and Newton Police Superior Officers Association, Mass Cop Local 401, 48 MLC 125 (Nov. 2, 2021)*** the DLR Hearing Officer dismissed a consolidated complaint alleging the City violated 150E when it took three separate adverse actions against the Union President allegedly in retaliation for engaging in protected concerted activity. The adverse actions were involuntarily transferring him from his day shift position in the Traffic Bureau to a night shift position in the Patrol Bureau (MUP -18-6946); denying his request to attend a specialized Search Warrant course (MUP-19-7379); and not selecting him for a Sergeant Specialist position (MUP-19-7379). While the parties' contract provides the City the right to transfer employees when in the best interest of the City, there was no evidence that the City had ever transferred a sergeant or lieutenant from a specialty position. The Union appealed and the City cross appealed certain findings. The CERB reversed the Hearing Officer's dismissal of the involuntary transfer but affirmed the dismissal of the other two counts. The CERB found that a reasonable person in the Union President's shoes would view a sudden transfer after 6 years working a day shift with weekends and holidays off, to a night shift with a schedule that could include working weekends and holidays, to be a material and objective change sufficient to constitute an adverse action.

In 2024, the Appeals Court reversed the CERB's decision finding the transfer was not an adverse action, and that the CERB incorrectly found that the City did not meet its burden of production. The Court determined that the transfer with a change in schedule/hours was not sufficient to establish an objective material change in the terms and conditions of the Union President's employment because he only testified that the change adversely impacted his family life rather than his working conditions. Further, the Court reasoned that where the Union had bargained for a shift differential for working the night shift, he could not now claim working that shift was an adverse employment action.

The CERB and the Union appealed the Appeals Court decision to the SJC. The Supreme Judicial affirmed the CERB's decision in its entirety, finding that the CERB applied the correct prima facie case, and that the transfer from day shift to night shift was an adverse employment action.

Judicial Appeals Pursuant to Section 11

Union Violated Its Duty To Bargain In Good Faith When It Advocated At Town Meeting For Benefit It Agreed To Forego At The Table
Andover Education Association v. Commonwealth Employment Relations Board, 106 Mass.App.Ct. 18 (2025)

In Andover School Committee, 50 MLC 122 (March 4, 2024), the CERB concluded the Union had failed to bargain in good faith when it bypassed the School Committee by advocating for a warrant article at a Special Town Meeting that provided for a "one-time pandemic stipend and retention premium for educational support professionals" to be funded out of Federal Covid-19 and ARPA Funds. The CERB found the Union's actions to promote and endorse the warrant article at Town Meeting were illegal and a form of self-help because it bypassed the exclusive bargaining representative (school committee) during on-going negotiations. The Union appealed.

On September 9, 2025, the Appeals Court affirmed the CERB's decision that the Union had violated its duty to bargain in good faith under G. L. c. 150E, § 10 (b) (2), when the Union reached a successor collective bargaining agreement with the School Committee and then shortly thereafter advocated at town meeting for stipends that it just agreed to forgo at the bargaining table. The Court termed this "double cross bargaining" and held that the Union engaged in bad faith fait accompli bargaining. The Court also determined that the CERB did not violate the Union's First Amendment rights under the U.S. Constitution. Applying the strict scrutiny test, the Court found that labor peace between the government and its employees is a compelling state interest and that the prohibition on speech that sidesteps collective bargaining is sufficiently narrowly tailored to serve the state's interest in labor peace.

NOTE: Employers should be prepared to act when unions engage in conduct that interferes with, restrains, and attempts to coerce the employer in the exercise of its right to bargain over mandatory subjects through its designated exclusive representative. When a union petitions Town Meeting or bypasses the exclusive bargaining representative through other means to achieve its failed or stalled bargaining goals, the union is purposely looking to destabilize and interfere with the collective bargaining process. Like Employers, employees are prohibited from direct dealing and must bargain in good faith.

CERB Decisions

CERB Reverses Hearing Officer's Decision Finding Sufficient Evidence That City Discriminated Against Union President *City of Attleboro and Attleboro Firefighters Local 848*, 52 MLC 113, MUP-21-8387 (November 4, 2025).

The issue before the CERB was whether the City of Attleboro discriminated against the President of Attleboro Firefighters, Local 848, I.A.F.F., Paul Jacques, in violation of Section 10(a)(3) and, derivatively, Section 10(a)(1) of M.G.L. c. 150E when the City issued him a written reprimand. Further, where the Hearing Officer held that the City violated Section 10(a)(1) by making disparaging and coercive comments, whether the scope of the remedy ordered was sufficient.

The CERB reversed the Hearing Officer's decision and found that the Union established by direct and indirect evidence that the City discriminated against Jacques in violation of Sections 10(a)(3) and derivatively 10(a)(1), when it issued a written reprimand to him. The CERB relied on the Chief's statement that he held strictly Jacques responsible for the Union's failure to get permission to have visitors in the City's buildings during the COVID-19 pandemic because of Jacques' role as Union President, even though other City personnel who permitted the visitors inside were not disciplined, and where the evidence established that the Chief's negative impression of Jacques was tied to Jacques' protected activity. The CERB affirmed the Hearing Officer's decision with respect to the scope of the remedy for the City's disparaging and coercive comments.

Hearing Officer Decisions

Union's Initial Information Request Was Overly Broad And The Employer Rightfully Did Not Provide Information It Did Not Possess, But Employer Violated The Law When It Failed To Fully Respond To The Union's Modified Request.

When it comes to Union information requests, the DLR applies a liberal standard when examining the relevance of the requested information. In most cases, the DLR has found the requested information to be relevant and necessary to the Union to fulfill its responsibilities as the exclusive representative of the bargaining unit. Once the Union has established that the requested information is relevant, the burden shifts to the Employer to demonstrate that the requested information does not exist or that it has legitimate and substantial concerns about disclosure, and that it has made reasonable efforts to provide the Union with as much of the requested information as possible consistent with its expressed concerns.

In Town of Brookline, 51 MLC 169 (April 1, 2025), the Union sent two (2) separate information requests to the Town asking for certain information regarding the Family and Medical Leave Act ("FMLA") and Injured on Duty ("IOD") status of bargaining unit members from 1996 through 2016. The Town did not provide the requested information. The Union subsequently modified its request to twenty (20) bargaining unit members and narrowed down the scope of its request by five (5) years.

With respect to the initial request, Hearing Officer Sullivan found that the Union's request for twenty (20) years of IOD leave documentation was "overly broad" and "not tailored to a reasonable period" where the facts indicated that IOD and FMLA leave started to run concurrently in 2016. The Union provided no good explanation as to why it needed the IOD records from 1996 through 2015 when IOD leave and FMLA did not run concurrently. Hearing Officer Sullivan also agreed with the Town that the Union's request amounted to an undue burden and further found that the Town met its statutory obligation by engaging in multiple conversations with the Union to try to find alternative ways to provide the requested information.

With regards to the Union's modified request, Hearing Officer Sullivan found that it was not overly broad because it was limited to twenty (20) bargaining unit members and the Union had narrowed down the scope of its request by five (5) years. She concluded that the Town violated the law when it failed to fully respond to the Union's modified request.

Hearing Officer Decisions

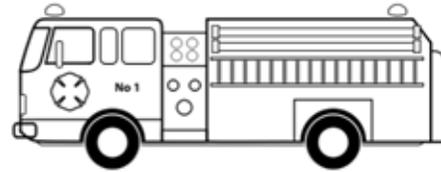
Employer Met Its Bargaining Obligations Over Its Decision to Require Employees To Receive The COVID-19 Vaccine.

In Commonwealth of Massachusetts/Secretary of Administration and Finance, 51 MLC 200 (May 14, 2025), the central issue was whether the Commonwealth failed to bargain over the impacts of its requirement that bargaining unit members receive the COVID-19 vaccine by October 17, 2021. The Union argued that the employer's COVID-19 requirement impacted the medical and religious exemptions of the reasonable accommodation policy and that the Commonwealth failed to bargain over those impacts.

In her decision, Hearing Officer Meghan Ventrella found that the Commonwealth and the Union met on several occasions to bargain over any potential impacts of the employer's decision on the COVID-19 vaccine requirement. Hearing Officer Ventrella found that the Union failed to demonstrate how the Commonwealth's decision had any impact on the reasonable accommodation policy. She further found that the Commonwealth fulfilled its bargaining obligations by engaging in meaningful discussions with the Union about the vaccine requirement and addressing its concerns throughout the process. For those reasons, she concluded that the Commonwealth did not violate the law and dismissed the Union's allegations.

School Committee Failed To Bargain Over The Implementation And Impacts Of A DESE-Required Training And Engaged In Unlawful Direct Dealings By Soliciting Employees' Opinions On An Issue That Was The Subject Of An Outstanding Grievance.

Even in cases where an employer is excused from the obligation to bargain over a decision, they may still be required to bargain with the Union over implementation and/or impacts of its decision on mandatory subjects of bargaining. For instance, in Boston School Committee, 52 MLC 13 (July 28, 2025), Hearing Officer Meghan Ventrella found that the Boston School Committee ("School Committee") violated the law by failing to bargain in good faith when it required the Coordinator of Special Education ("COSE") bargaining unit members to attend mandatory training without giving the Boston Teachers Union, Local 66 ("Union") prior notice and an opportunity to bargain to resolution or impasse over the decision to require training and the impacts of the decision on bargaining unit members' terms and conditions of employment.



CIVIL SERVICE COMMISSION (CSC)

Statistics and Significant Decisions

STATISTICS

2025 Calendar Year Statistics – Highlights

- The Civil Service Commission received 283 new appeals in 2025 and closed out 227 appeals
- The open case inventory of appeals as of December 31, 2024 is 121
- No appeals have been pending before the Commission for more than 12 months as of December 31, 2025
- Average age of a pending appeal is 14 weeks as of December 31, 2025 (compare: 46 weeks (2018); 35 weeks (2021); 34 weeks (2022); 18 weeks (2023), 19 weeks (2024)).

Total Appeals Pending (2006 -2025) as of:

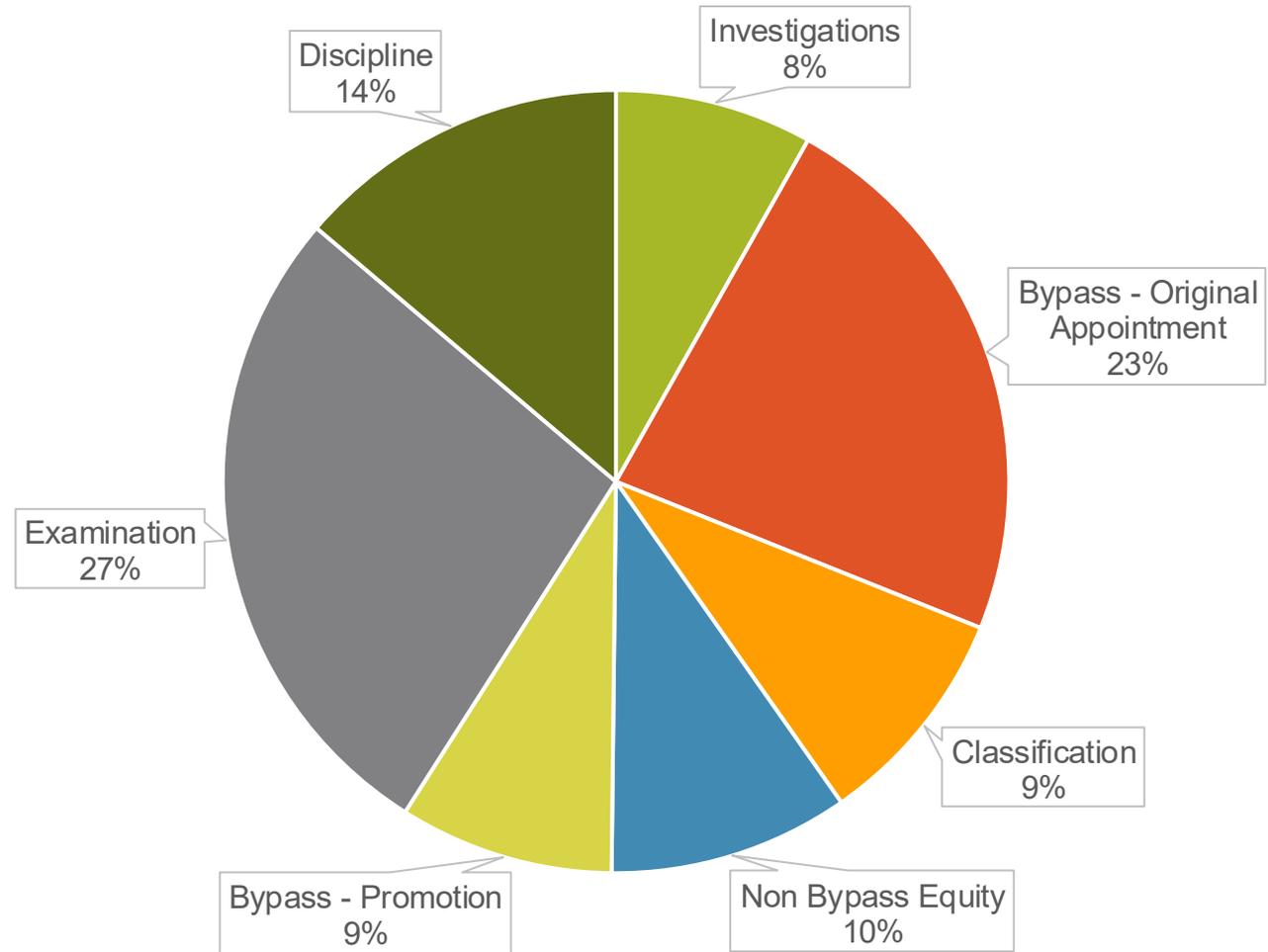
813 220 179 90 175 190 156 158 103 72 65 121

Total Appeals Pending for more than 12 months (2006 -2024) as of:

550 98 46 27 60 71 76 33 25 6 4 0

STATISTICS

Percentage of Appeals By Type of Appeal



Source: <https://www.mass.gov/doc/2025-calendar-year-statistics/download>

AGENCY UPDATE

As part of the 2020 Police Reform Law, a special commission was formed to study Civil Service in Massachusetts. This commission met dozens of times between 2021 and 2024 ultimately endorsing compromise legislation in January 2024 designed to preserve the merit-based protections of the civil service system while allowing cities and towns greater flexibility in how they fill vacant public safety positions.

On November 20, 2024, Governor Healey signed Chapter 238 of the Acts of 2024 into law, which includes far reaching reforms to the state's civil service law.

As part of the new reforms, the Personnel Administration Rules (PARs) need to be updated. That process is expected to begin in or around March 2026. The last time the PARs were updated was 2010.

COMMISSIONERS

- Christopher C. Bowman, Chair
- Shawn C. Dooley, Commissioner
- Angela C. McConney, Commissioner
- Paul M. Stein, Commissioner
- Joseph A. Markey, Commissioner

Hybrid Pathway

The *Modernizing of Civil Service Law* marked the most significant improvements to the civil service system in a generation.

Reform Highlights

- New alternative pathway: “hybrid” option for entry level police and fire appointments
- Larger pool of candidates to consider from traditional a civil service process
- A new regional residency preference
- Streamlined approval process for cadet programs
- DEI resources at the state level to assist cities and towns, especially with recruitment
- Standing Commission to ensure continuous improvement in civil service system

Hybrid Hiring

- Multi year written agreement with HRD to allow for hybrid hiring process for ½ of new appointments
- Biannual reporting with HRD to share statistics regarding hiring
- Working on outreach and informational meetings
- Personnel Administration Rules will need to be re-written

Local Register for Police and Fire Appointments

The Local Register program allows Commonwealth cities and towns to appoint entry-level, regular full-time Police and Fire personnel in collaboration with the Human Resources Division (HRD). Appointing Authorities, upon executing a Memorandum of Agreement with HRD's Civil Service Unit, may appoint a maximum of 50% hires from their Local Register. Employees appointed through this process will be granted civil service status under M.G.L.c.31. This hiring process is subject to specific procedures and restrictions under civil service law, rule, and policy.

Police Departments with a Local Register

Acushnet, Amesbury, Andover, Attleboro, Auburn, Billerica, Boston, Braintree, Bridgewater, Chelmsford, Chelsea, Chicopee, Dartmouth, Duxbury, Fall River, Fitchburg, Hingham, Holden, Holyoke, Kingston, Lancaster, Leominster, Lowell, Lynn, Lynnfield, Malden, Marshfield, MBTA Transit Police, Medford, Medway, Melrose, New Bedford, Newburyport, Norton, Pittsfield, Plymouth, Randolph, Revere, Salem, Somerville, Southbridge, Wakefield, Westfield, Winthrop, Worcester, Wrentham

Fire Departments with a Local Register

Abington, Andover, Attleboro, Boston, Chelsea, Danvers, Easthampton, Easton, Fall River, Hanover, Hingham, Hull, Ludlow, Norton, Pittsfield, Randolph, Watertown, Westfield

CSC In The Courts

Individualized, Post-Leave Written Notice Not Required To Extend Probationary Period

In *Emanuel Brandao v. Boston Police Department*, 105 Mass.App.Ct. 187 (Jan. 16, 2025), the Appeals Court affirmed the dismissal of Emanuel Brandao (“Brandao”) during his probationary period, concluding he had not acquired tenured civil service status at the time of his termination. Brandao, a Boston Police officer for 200 days over a 21-month period due to two military leaves of absence, was discharged, without pretermination process, following an off-duty incident. Brandao argued he had achieved civil service tenure because he had not received written notice his probationary period had been extended. The Court held that the notice requirement of PAR 12(2) had been satisfied by his receipt of a BPD Rules compendium at hire. Those rules explicitly stated time spent on leave would not count toward the completion of the 12-month probationary period. The Appeals Court and Superior Court both upheld a Commission decision that Brandao had not completed his probationary period at the time of his termination, thus divesting the Commission of jurisdiction to hear his appeal.

Court Affirms CSC Reopening of a 2013 Decision Based On New Eligibility Concerns And Upholds Termination

In *Brian Sweet v. Massachusetts Civil Service Commission*, 105 Mass.App.Ct. 1117 (2025), the Appeals Court upheld the Commission’s 2017 amended decision to rescind its prior 2013 order, which had reduced Sweet’s termination to a 60-day suspension. The 2017 decision reinstated the original appointing authority termination based on new evidence that Sweet remained ineligible to obtain an unrestricted license to carry (“LTC”) for at least three years. Without the LTC, an essential qualification for performing the duties of a State Trooper, Sweet was ineligible for rehire. The Court found that this prolonged ineligibility, which was not been part of the record in 2013, provided sufficient grounds to reopen the case and reconsider the appropriate disciplinary outcome. Permitting the Commission to exercise inherent authority to reconsider a decision that turned out to be infeasible and improvident, the Appeals Court held that the Commission did not abuse its discretion in either reopening the case or voting anew to affirm the original decision to terminate.

CSC Discipline Decisions

Joseph Abasciario v. Boston Police Department, D1-23-033 (December 19, 2024) Decision on Motion for Reconsideration (March 6, 2025)

An officer who attended the January 6, 2021 riots at the Capital was terminated based on social media messages he posted or condoned. After review and consideration of the record, the hearing officer stated, "I am persuaded by the preponderance of evidence that, applying the Pickering balancing test: (1) the Appellant's tweets are private political speech on matters of public concern that fit within the scope of BPD Rule 102, Section 30 and (2) the BPD has not established an adequate justification to restrict that speech in the interest of protecting the BPD's mission or operations." As a result, the tweets cannot be sanctioned as "conduct unbecoming" under BPD Rule 102, Section 3 or as a violation of the BPD's Canon of Ethics under Rule 113, Canon 8. In this case, the hearing officer was persuaded in part by the fact that the department's initial investigation of the social media posts cleared the Appellant of any wrongdoing. The hearing officer did not give much weight to a second report, issued a year later. Furthermore, the department did not have a social media policy.

In March 2025, the Commission denied Abasciano's request for monetary damages and attorneys' fees, finding that the circumstances that had been presented did not warrant more than a restoration of his civil service tenure status. In November 2025, citing the CSC's decision, a U.S. District Court Judge granted partial summary judgment for Abasciano on his First Amendment retaliation claim. The City had argued that the First Amendment issue was not litigated before the Commission, but the Court disagreed. The Court found that the City had adequate notice of the claim(s) and incentive to oppose them; whether they took full advantage of that opportunity was a separate issue and does not mean that they did not have a "full and fair opportunity to litigate the issue."

"Accordingly, Defendants are estopped from relitigating the issue of whether the City's termination of Abasciano violated the First Amendment, regardless of whether this Court agrees with the Commission's resolution of this issue. Patton, 915 F.3d at 833. Because the Commission's decision is dispositive of the City's liability on Abasciano's § 1983 claim, Abasciano's motion for partial summary judgment is granted."

CSC Discipline Decisions

Continued Uptick in Fire Discipline Cases

In *Casey Bailey v Boston Fire Department*, 38 MCSR 24, (February 6, 2025), the Commission upheld the Boston Fire Department's (BFD) imposition of a 60-day suspension on firefighter Casley Bailey for untruthfulness and misrepresentation regarding the unauthorized use of emergency lights and sirens on his personal vehicle. The suspension stemmed from a November 9, 2023, incident in which Bailey was observed by a Massachusetts State Trooper driving through congested traffic with unauthorized emergency equipment activated.

In *Barsalou v Holyoke Fire Commission*, 38 MCSR 78, (April 3, 2025), the Commission upheld disciplinary action taken against Andrew Barsalou, a former Captain in the Holyoke Fire Department. The Commission found that the City had just cause to demote Barsalou from the rank of captain to lieutenant and to suspend him without pay for 5 days based on inappropriate conduct toward a probationary firefighter that he was assigned to train and supervise. This case presents a clear affirmation that supervisory employees are held to a higher standard of conduct. Although Barsalou had no prior disciplinary history, the Commission held that demotion in rank was appropriate as a first measure of discipline, given the serious misconduct. The Commission explicitly rejected the argument that the conduct should be viewed in the context of a relaxed or crude "milieu" at the fire station. It emphasized that a pervasive culture of sexual joking or informality does not excuse unlawful or inappropriate behavior, particularly from supervisors.

In *Neal Mullane v. Boston Fire Department*, 38 MCSR 228, (June 26, 2025), the Commission affirmed the decision of the Boston Fire Department to suspend a District Fire Chief for four tours of duty based on his off-duty misconduct, including violations of the Department's social media policy. Mullane received an official reprimand and a four-tour suspension after posting a derogatory video and commentary about a member of the public on his personal Facebook page. Mullane worked for the Department for 25 years with no prior disciplinary record. The Department has a social media policy, which Mullane signed and acknowledged annually.

In *Jeffrey Reyes v. Salem Fire Department*, 38 MCSR 390, (November 13, 2025), a majority of the Commission affirmed the decision of the Salem Fire Department to terminate the employment of a firefighter for conduct unbecoming a firefighter and then misrepresenting what occurred. The preponderance of the evidence showed Reyes took cash from a union-operated vending machine without authorization and made false statements about what had occurred and why he did it.

CSC Promotional Bypass Decisions

What To Do

Matthew Botelho v. Town of Fairhaven

The Commission affirmed the decision of the Town of Fairhaven to bypass a candidate for Police Chief based on the selected candidate's superior performance during a well-designed, structured interview process, which demonstrated that the selected candidate was the better choice to lead the Police Department. **Interviews were recorded and made available to the public.**

What Not To Do

Kelly Chuilli v. Bridgewater Police Department

The Commission vacated the promotional appointment of a Bridgewater Police Lieutenant and ordered a re-do of the process after concluding that there was no basis for the Police Chief to overrule the rankings of an independent assessment center and an outside review panel, both of which had ranked the Appellant first. On April 17, 2025, in response to a request by Chuilli and another superior officer, the Commission voted to open an investigation into possible misconduct and an alleged "quid pro quo" arrangement between BPD officers to distort the selection process for captain.

A Mixed Bag

Jason Perron v. Westfield Police Commissioner

This case involves two bypasses that were consolidated by agreement of the parties. The Commission affirmed the first decision of the Westfield Police Commission, in determining which officer to promote to sergeant, to bypass the Appellant in favor of another candidate with more impressive work experience; but overturned a second bypass in favor of a different, younger, less-experience candidate due to procedural flaws and indicia of impermissible bias. In addition to concerns over the promotional process, this decision addresses possible discrimination or bias based on age and mental health.

CSC Experience and Education Appeals

Michael Cote v. Human Resources Division, 38 MCSR 164 (May 29, 2025)

The Commission allowed the examination appeal of a candidate who had taken the promotional examination for Environmental Police Officer D(Lieutenant) and ordered that HRD grant him E&E credit for his prior outside law enforcement experience as an active duty "s worn law enforcement officer" with the USAF Security Forces and recalculate his examination score accordingly.

William Schlieman v. Human Resources Division, 38 MCSR 207 (June 12, 2025)

Motion for Reconsideration Denied, 38 MCSR 397 (November 11, 2025)

A divided Commission (3-2) allowed the examination appeal of a Brockton Police Lieutenant, concluding that, under the specific facts of the case, the Appellant's time in the late 1990's as a UMASS Lowell police officer properly should be credited toward determining his eligibility for a two-point, 25-year-service preference. The case is significant because it examines the ambiguity surrounding the term "regular police officer" in § 59 and the lack of definitive appellate guidance. The Commission majority took a pragmatic approach, considering the actual policing duties performed. Commissioners Bowman and McConney dissented, arguing that pre-2014 UMass campus police service should not qualify. In their view, HRD's denial was not arbitrary or capricious, and there was nothing in the record to support departing from past precedent. They reasoned that it was only after the 2014 amendment that the Legislature explicitly conferred parity with municipal officers, and therefore HRD's interpretation was reasonable.

Richard Ziobro v. Human Resources Division, 38 MCSR 236 (June 26, 2025)

The Commission allowed the bypass appeal of a Medford police sergeant credited by HRD with nine years of service in patrol rather than ten. The Appellant had served nine years and 193 days which the Commission found should have resulted in a credit for ten years.

Ryan Arsenault v. Human Resources Division, 38 MCSR 260 (July 31, 2025)

The Commission denied an examination appeal brought by a candidate who took the 2025 Boston Fire Lieutenant Promotional Examination, concluding that the state's Human Resources Division did not act unreasonably or arbitrarily in determining that the Appellant's law degree was education "unrelated" to the core duties of a Fire Lieutenant and, therefore, entitled to credit as such, rather than as education directly "related" to the job duties of a Fire Lieutenant.



Peace Officer Standards and Training (POST) Commission

UPDATES AND STATISTICS

POST COMMISSION – Key Updates from 2025

Change to Recertification Expirations: For recertifications after July 1, 2025, expiration dates will align with the first day of the officer's birth month. This approach evenly distributes the administrative workload and provides a consistent recertification reminder to officers.

- Example: If an officer's certification expired July 1, 2025, and their birthday is in February, their next recertification expiration date would be extended to Feb. 1, 2029, instead of July 1, 2028. Upon expiration on Feb. 1, 2029, the next certification period will be 3 years.

Two New Certification Statuses: Implemented two new certification statuses to ensure data accuracy, coordinate with agencies during the hiring process and address the potential for officers who might attempt to avoid discipline by transferring departments.

- **Restricted:** When an officer with an active certification leaves a department for any reason (including termination or resignation), their certification will be marked as "restricted." When hiring any officer, including those with a restricted status, agencies should complete [this form](#).
- **Expired:** Officers whose certification lapsed and failed to submit a recertification application. Officers with an expired certification are typically not employed by a law enforcement agency, but if they are, agencies must submit their information for recertification (recertification is not automatic).

New Policy on Voluntary Relinquishment of Certification: Introduced a process for officers to apply for voluntary relinquishment of their certification. Learn more [here](#).

POST COMMISSION - STATISTICS

The POST Commission has mandates to (1) develop certification standards in collaboration with the Municipal Police Training Committee, (2) certify officers, school resource officers (SRO) and law enforcement agencies, (3) receive, investigate and adjudicate complaints, and (4) maintain a public database with certain disciplinary records and certification status of officers.

- **NEW GUIDANCE:** Issued two new guidance documents for constables. Available on website.
- **CERTIFICATION/RECERTIFICATION:** Processed over 560 certification applications and over 7,900 recertification applications.
- **COMPLAINTS:** Received about 33 public complaint reports weekly and about 19 law enforcement agency complaint/incident reports weekly (compared to 30 and 10 respectively in 2024).
- **CONCLUDED PROCEEDINGS:** Finalized discipline actions for around 47 individuals, including 35 decertification orders (compared to 35 individuals and 30 decertification orders in 2024).
- **DISCIPLINARY CASES:** Presented approximately 160 cases to the Commission (compared to 152 in 2024), opened around 70 preliminary inquires, and issued around 76 Decisions and Orders (compared to 52 in 2024 and 19 in 2023).
- **DISCIPLINARY RECORDS DATABASE:** Issued 11 updates, shifting to nearly monthly releases. Began publishing "Complaint Summaries" on newer records to increase data quality.

OFFICER STATUS COUNTS

as of December 31, 2025



19,758 CERTIFIED	313 CONDITIONALLY CERTIFIED	448 NOT CERTIFIED	99 NOT CERTIFIED – ON LEAVE	660 SRO CERTIFIED
75 DECERTIFIED	67 SUSPENDED	896 RESTRICTED	1040 EXPIRED	4 VOLUNTARILY RELINQUISHED

Officer Status Counts (status definitions)

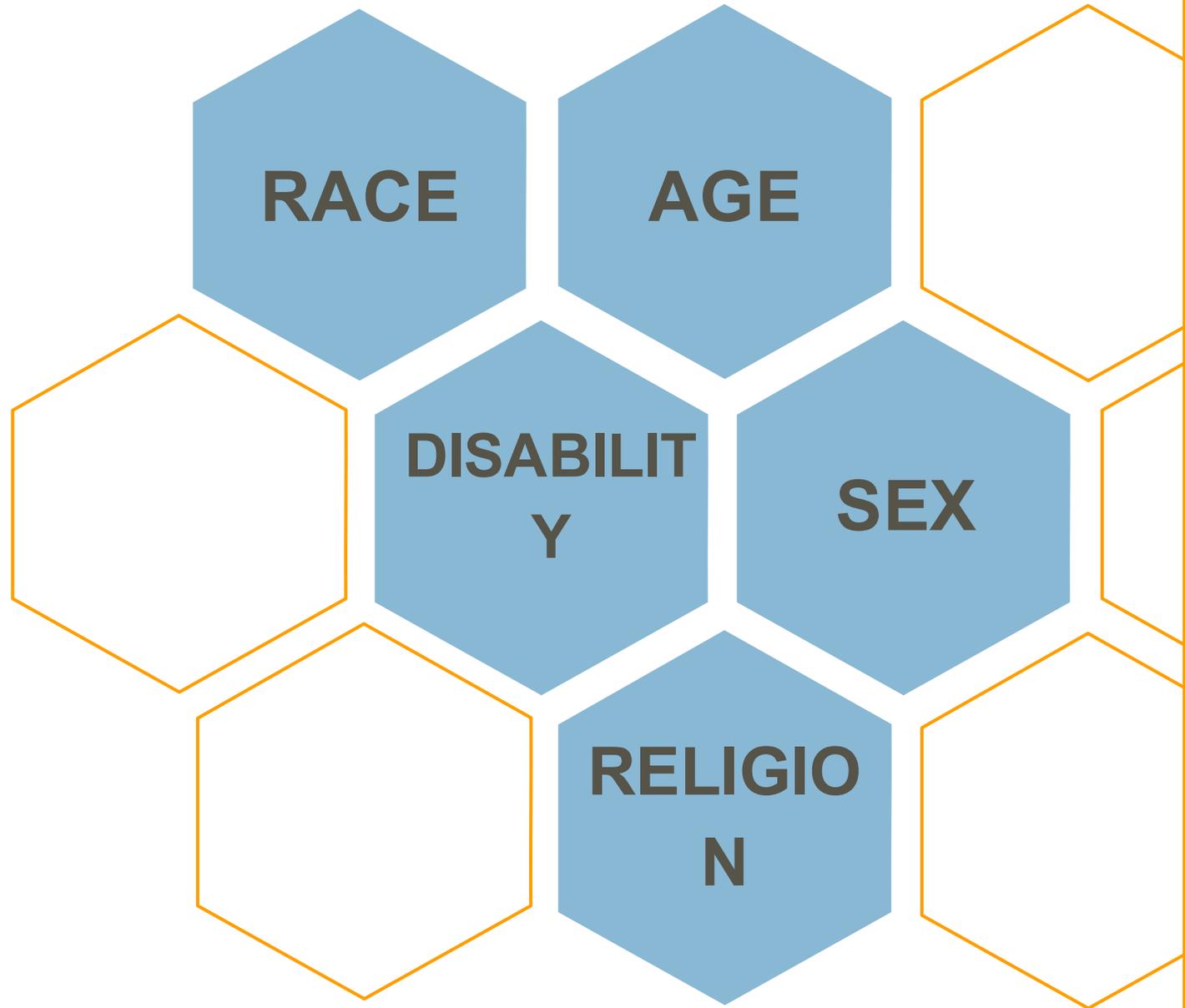
- ❑ **Administrative suspension:** Officers on this list have been administratively suspended for failure to complete the required MPTC training
- ❑ **Certified:** Officer has met all necessary requirements and is certified for three years.
- ❑ **Not Certified:** Officer has not satisfied all recertification requirements (i.e., failed to complete training, out on excused/admin leave, etc.)
- ❑ **Not Certified (Excused Leave):** Officer on extended leave (medical, military, family or admin) and has not met recertification requirements
- ❑ **Conditionally Certified:** Officer has met some recertification requirements, and must satisfy all requirements within a specified time frame
- ❑ **Decertified:** A decertified officer cannot work for a law enforcement agency in any capacity.
- ❑ **Expired:** An officer whose certification lapsed, who did not submit a recertification application by that date, and is not currently affiliated with a recognized law enforcement agency. The Division of Certification will make reasonable efforts to notify officers of their expired status using any available personal email address. Officers classified as expired will be publicly listed on the POST Commission website for 90 days from the date of classification. This listing informs employers, agencies, and public that the officer's certification is no longer valid.
- ❑ **Restricted:** An officer who is not currently affiliated with a recognized law enforcement agency and does not meet the criteria for "Expired" status. Restricted officers will be listed as such on the POST website. This designation indicates that while the certification remains valid, the officer is not currently authorized to serve due to the lack of agency affiliation.
- ❑ **School Resource Officer:** (SRO) An individual who is either a duly sworn municipal police officer with all necessary training and up-to-date certificates, including special SRO certification as required by M.G.L. c. 6E, § 3, or an officer appointed by the chief of police who is specially charged with providing law enforcement, promoting school safety and security services to elementary and secondary public schools, and maintaining a positive school climate for all students, families, and staff.
- ❑ **Suspended:** An officer who is arrested, charged, or indicted for a felony will have their certification suspended immediately. The Commission may also suspend certification after a preliminary inquiry. Officers whose certification has been suspended will be listed on the monthly suspension list. Suspended officers may not perform any police duties or functions.
- ❑ **Unassociated:** An officer who is not currently employed by a law enforcement agency. To view a report of all unassociated individuals, select the "Unassociated" drop-down in the "Law Enforcement Agencies" search field.
- ❑ **Under Review:** POST requires additional information to process the recertification application and/or the officer is challenging a certification decision.

Source: <https://mapostcommission.gov/discipline-status-records/officer-status-lists/>



Massachusetts Commission Against Discrimination

UPDATES, STATISTICS, AND
DECISIONS



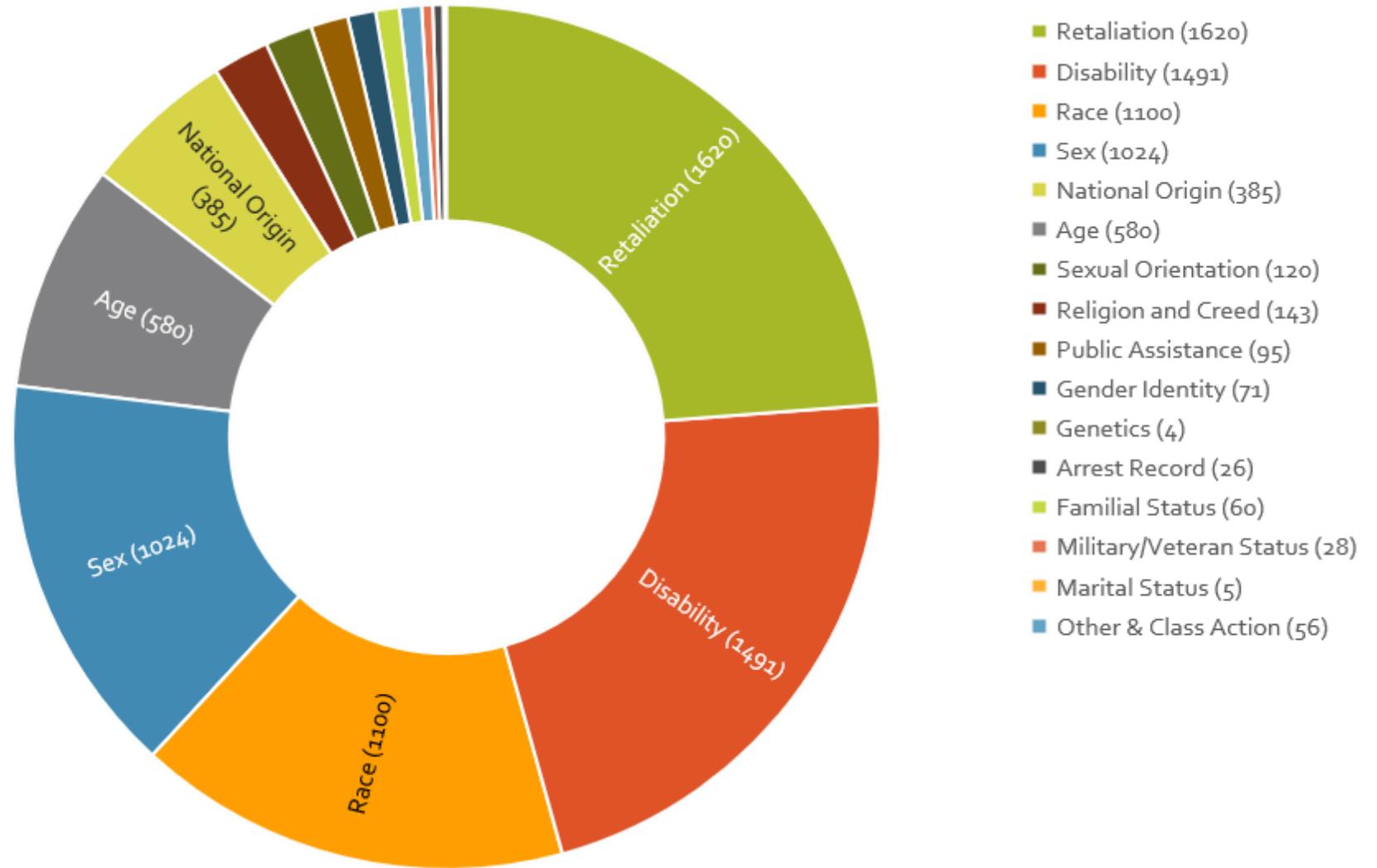
AGENCY UPDATES

- **The end of 2025 marks the end of the historic three-member, full-time Commissioner structure that has been in place at MCAD for the last 80 years.** Governor Healey proposed amendments to the MCAD's enabling statute as part of the FY26 budget. These recommendations were adopted and approved by the Legislature to be included in the final FY26 budget. The changes restructure the composition of the MCAD Commissioner and Advisory Boards, mandate the Executive Director position, and require the Executive Director to appoint a Chief Financial Officer. **These changes were effective January 1, 2026.**
- For the first time in roughly seven years, the agency commenced three Commission initiated complaints and resolved two of them this fiscal year.
- One of the greatest achievements for 2025 was the agency's ability to retain staff. The agency realized only one voluntary separation of an MCAD team member, leaving to attend law school, and the retirement of an MCAD Commissioner June 30, 2025. During this same time, the agency successfully backfilled five investigator positions to assist in addressing its backlog and high caseloads.
- In FY24 the Agency selected a vendor for its new Comprehensive Case Management System (CCMS) to replace the prior 22-year-old case management system. For the first time in the agency's history, constituents will be able to file complaints online. **Work on the project began in May 2024 and remains on target to be completed Spring 2026.**

FY25 AT-A-GLANCE

2 commission-initiated complaints settled	6,710 people trained in anti- discrimination law	623 public records requests
10 Public hearing & attorney fee decisions	3,243 new complaints filed	4240 mediations & conciliations
311 Anti-discrimination trainings conducted	1,347 dispositions issued	15% probable cause investigative findings

AGENCY UPDATES



Breakdown of Discrimination Based on Sex

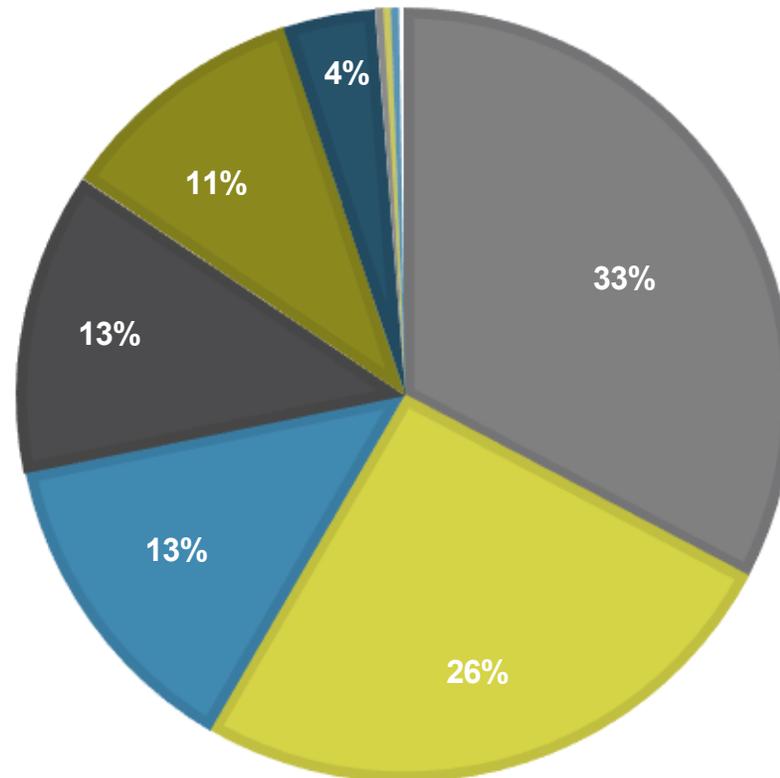
Sex	618
Sexual Harassment	241
Pregnancy/Parenting	165

Source: MCAD FY25 Annual Report

AGENCY UPDATES

FY25 ADMINISTRATIVE CLOSURES

- Pre-Determination Settlement
- Dismissed
- Judicial review
- Compliance with Order
- Chapter478 (removed to court)
- Conciliated
- Failure to Cooperate
- No Violation
- Withdrawn without Settlement
- Withdrawn with Settlement
- Unable to Locate Complainant
- Bankruptcy

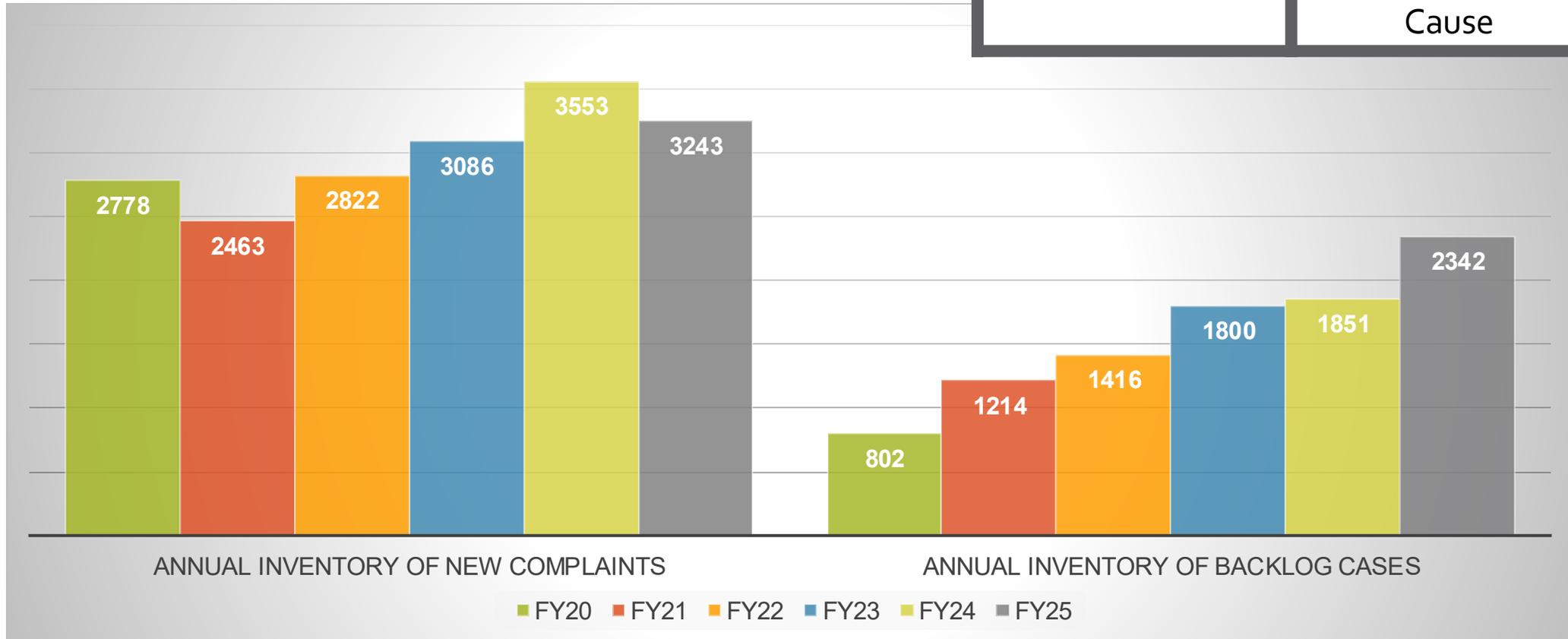


AGENCY UPDATES

FY25 Investigative Findings

191 (15%)
Probable Cause

1045 (85%)
Lack of Probable
Cause



MCAD Updated Procedural Regulations

PUBLIC COMMENT PERIOD THROUGH JANUARY 30, 2026

The MCAD Commissioners have approved an updated draft of the agency's procedural regulations for review and comment by the public prior to the Commissioner's approval and publication of the final regulations. **The deadline to submit public comment is January 30, 2026, and public comments should be sent to MCADProRegs@mass.gov.**

MCAD has planned **three hybrid public hearings** for the purpose of receiving feedback from the public on the draft version of the updated procedural regulations, which significantly revise the MCAD case processing and procedure to implement a new comprehensive case management system and online complaint filing portal. The proposed revisions also address the Commissioners' roles in case processing in light of recent statutory changes made to M.G.L. c. 6, sec. 56, in addition to other changes.

Access the draft regulations: [*DRAFT MCAD Procedural Regulations for Public Comment*](#)

MCAD Training, Education, & Community Outreach

During FY25, the Training Unit conducted and participated in 311 discrimination prevention training sessions, community events, and career fairs across the state, reaching approximately 6,710 participants. Trainings are provided in person and virtually and cover a range of topics including employment, housing, sexual harassment, disability and religious accommodations, and conducting internal investigations.

The Training Unit was also involved in the creation of the "Navigating Discrimination" guide, a resource developed in partnership with the Mayor's Office of LGBTQIA25+ Advancement (MOLA) and the Northeastern University School of Public Affairs. This resource is available on the MCAD [website](#).

Noteworthy Settlements by Commission Counsel

During FY25, Commission Counsel resolved 73 discrimination cases through conciliation and negotiation, recovering \$1,070,499 in victim specific relief. The also secured affirmation relied in the form of training , reasonable accommodations and policy review.

- An educational consultant was subjected to harassing comments which were associated with her race and color by one of her supervisors, including but not limited to the supervisor describing largely Black school systems negatively, and referring to certain urban areas as “chocolate cit[ies].” The consultant made multiple reports of these incidents to a higher-level manager who she believed had the authority to remedy the harassment. However, **Respondents took no action to address the situation.** Respondents agreed to resolve the matter for a payment of \$45,000 to the consultant. Respondents also agreed to attend an MCAD anti-discrimination training.
- An employee with a disability alleged that her employer violated state anti-discrimination law by denying her a reasonable accommodation following medical leave. She requested relief from certain non-essential duties, tasks the employer had previously excused for co-workers undergoing remedial training. **The employer declined the request, citing concerns about staff morale and the potential for similar requests from other employees.** The matter settled for \$17,500 for emotional distress. As part of the resolution, the employer agreed to a private training conducted by the Commission, covering antidiscrimination law and best practices for handling accommodation requests.
- A teacher alleged that his contract was not renewed in violation of state disability and anti-retaliation laws. He had been hospitalized for a life-threatening condition and returned to work while still undergoing treatment. **Upon his return, he received no negative feedback about his job performance.** Although he was present for only about half of the school year, due to his medical condition, he was informed at the end of the term that his contract would not be renewed for “performance-related” reasons. The employer cited evaluation reports prepared the day before the termination decision. The matter was resolved with the employer paying the teacher \$60,000.
- A female who is over the age of 40 and identifies as a lesbian and was employed in the maintenance department at Respondent. Complainant alleged that she was subjected to different treatment than similarly situated employees that were not in Complainant’s protected classes specifically given the manager’s allotment of overtime opportunities, specific job tasks, and overtime assignments. Complainant was selected for layoffs during the COVID-19 pandemic. The matter was successful resolved at conciliation with a settlement payment of \$40,000 to the Complainant and Respondent’s commitment to provide the Complainant a neutral reference, and to engage with training and policy review to increase awareness of discriminatory behavior in the workplace.

MCAD Hearing Officer Decisions

MCAD and Andy Nom v. Action Auto Body, Sonia Trinh, Jose Mourato, 46 MDLR 61 (2024) (Harassment and Retaliation)

Nom filed a complaint against his employer (Action Auto Body) and its co-owners, alleging harassment based on national origin and race, and retaliation, and sought to hold the owners individually liable. Nom alleged that his co-worker had threatened him and called him a highly offensive racial slur. When he reported the incident, his employer suspended both Nom and the co-worker who had threatened him without pay. After three days, Nom was transferred to another shop that required him to commute further from his home (additional time and expense).

The Hearing Officer found that the suspension, which occurred the same day that the conduct was reported, was an adverse action. The loss of pay resulting from his immediate removal after complaining about a co-worker's behavior would reasonably be perceived or experienced as punitive and dissuade an employee from coming forward. Furthermore, although there was no loss in compensation, the transfer of Nom to a different auto body shop could be deemed retaliatory if it was less desirable. In this case, the transfer was immediately after the conduct was reported, increased transportation/commuting costs and could reasonably dissuade an employee from coming forward to report a claim of discrimination. While the employer argued that the suspension and more were to protect the employee and allow things to cool down in the shop, the Hearing Officer found that there were several other options that could have achieved that result without penalizing the complainant.

The Hearing Officer dismissed the retaliatory termination claim based on the finding that Nom had voluntarily quit and was not terminated. Furthermore, the Hearing Officer found that the owners did not act with deliberate disregard for the employee's rights and declined to hold them individually liable. Action Auto Body was ordered to pay Nom for the three days he was suspended and he was awarded \$7,500 in emotional distress damages resulting from the retaliatory suspension and transfer. Action Auto Body was also ordered to participate in training.

MCAD Full Commission Decisions

[MCAD & Pavlov v. Happy Floors, Inc. and New Floors, 47 MDLR 1 \(2025\) \(Employment-Sex-Pregnancy-Jurisdiction-Supplemental Attorney's Fees\)](#)

The Respondent employer appealed the Hearing Commissioner's decision holding it liable for sex and pregnancy discrimination primarily on jurisdictional grounds, arguing that it was not an "employer" under M.G.L. c. 151B because it employed fewer than six employees and that the Hearing Commissioner erred by finding that its flooring workers were employees rather than independent contractors. The Full Commission's decision in this case included a detailed discussion of the Commission's jurisdiction over employers having at least six employees, the time frame relevant to the jurisdictional determination, and the nature of the employment relationship between Respondent and its workers to support the Hearing Commissioner's conclusions that they were, in fact, employees and not independent contractors. The Hearing Commissioner's findings were supported by careful consideration of at least 20 non-exhaustive factors that demonstrated these workers were employees. Some of these factors weighed in favor of Respondent's argument that the flooring workers were independent contractors, while others demonstrated the workers were actually employees. Respondent maintained that these workers were independent contractors and urged the Full Commission to reweigh the factors analyzed by the Hearing Commissioner. Regardless of the label Respondent assigned to these flooring workers, it is the nature of the employment relationship that determines whether a worker is an independent contractor or an employee for the purpose of establishing jurisdiction under M.G.L. c. 151B.

The full Commission addressed the question of how much proof is required regarding the nature of the employment relationship. It determined that the burden cannot be so onerous as to evade jurisdiction un M.G.L. c. 151B. It also reviewed M.G.L. c. 149, section 148B, the independent contractor law enforced by the Attorney General's Office. Although not controlling, the Commission contrasted the burden between the two statutes. The Commission determined that the MCAD had jurisdiction over the case and affirmed the Hearing Officer's findings of sex and pregnancy discrimination.

QUESTIONS?

Melissa R. Murray
Norris, Murray & Peloquin
781-762-2229
mmurray@nmplabor.com
www.nmplabor.com





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For more detail on DLR and CSC cases, please see our firm's Management Commentary in Landlaw's publication of these cases.

NOTICE: This presentation and the content herein does not purport to give legal advice for any specific situation, or, come to think of it, even a general situation. The information provided is for informational and training purposes only.